

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Petition of Dalia Genger, as
Trustee of the Orly Genger 1993 Trust, Created by
Trust Agreement Dated December 13, 1993 between
ARIE GINGER, as Grantor, and LAWRENCE M.
SMALL and SASH A. SPENCER, as Trustees, to
Turnover Property to the Orly Genger 1993 Trust.

File No.: 2008-0017/E

Surrogate Nora S. Anderson

Dalia Genger, Trustee of the Orly Genger 1993 Trust,

Petitioner,

-against-

Orly Genger, et al.,

Respondents.

**REPLY AFFIRMATION OF LEON FRIEDMAN IN SUPPORT OF MOTION TO
DISMISS BY RESPONDENT ARIE GINGER**

LEON FRIEDMAN, an attorney duly admitted to practice in the courts of the state of
New York, affirms the following under penalties of perjury:

1. I am the attorney for respondent Arie Genger. I make this reply affirmation in
support of a motion to dismiss the pending petition (the "New Action") brought by Petitioner
Dalia Genger.

2. In our opening submission, we asserted that Arie Genger was never served with
the actual petition in this matter. Affirmation of Leon Friedman In Support of Motion To
Dismiss by Respondent Arie Genger, dated February 4, 2018, par. 2). A two-page
"Miscellaneous Citation" was sent by regular mail to an old address of Mr. Genger and then
forwarded to his new address. (Attached as Exhibit A to Moving Affirmation of Leon Friedman,
dated February 4, 2018). No petition actually accompanied the two page document.

3. In her opening papers Orly Genger asserted:

She [Dalia] attempted to serve that document [the citation] on certain of the named respondents, including Arie Genger, Orly's father and the former husband of Dalia. But she never attempted service of the underlying documents – including the petition itself in this New Action or any of its numerous exhibits – on any respondent.

See Memorandum of Law in Support of Respondent Orly Genger's Motion to Dismiss Dalia Genger's 2016 Petition, dated February 5, 2018, at p. 7,


4. *Nowhere in Dalia's answering papers does she challenge the assertions noted above that the underlying petition, as opposed to the two page citation, were never served on Arie Genger.* Indeed Dalia's attorney, Judith Bachman states in her answering affirmation dated February 20, 2018 that "I sent a courtesy copy of the petition to the attorneys for all of the parties named and inquired if they would accept service. They refused to accept service." (par. 5-6). On that basis and on the basis of the legal memorandum submitted by Orly Genger, the New Action must be dismissed.

5. In every other respect, Arie Genger is in precisely the same position as his daughter Orly Genger as described in her moving papers. Arie Genger hereby incorporates and adopts all of the arguments made by Orly Genger in her Reply papers in support of a motion to dismiss.

6. For the reasons stated above, Respondent Arie Genger moves that the pending New Action be dismissed.

Affirmed under penalties of perjury.

Dated: New York, N.Y.
February 26, 2018


Leon Friedman
685 Third Ave, 25th floor
New York, N.Y. 10017
(646) 825-4398
Attorney for Respondent Arie Genger

CERTIFICATE OF SERVICE

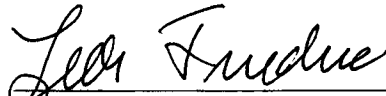
I hereby certify that I am not a party to this action, am over 18 years of age and reside at 148 East 78th Street, New York, N.Y and that I am an attorney duly admitted to the Courts of the State of New York.

On February 26, 2018, I served a copy of the annexed Reply Affirmation of Leon Friedman in the following manner:

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

Judith Bachman
254 S. Main Street, Suite 406
New City, N.Y. 10956

Dated: February 26, 2018


Leon Friedman

Index No. 2008-0017/E

Year 20

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COUNTY OF NEW YORK**

**In the Matter of the Petition of Dalia Genger, as Trustee of the Orly
Genger 1993 Trust, to Turnover Property to the Orly Genger 1992 Trust**

**Dalia Genger, Trustee of the Orly Genger 1993 Trust
Petitioner**

-against-

Orly Genger, et al

Respondents

REPLY AFFIRMATION OF LEON FRIEDMAN

LEON FRIEDMAN

Attorney for **Respondent Arie Genger**

685 THIRD AVENUE, 25TH FLOOR
NEW YORK, NEW YORK 10017
(646) 825-4398

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated:

Signature

Print Signer's Name.....

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

☐

NOTICE OF
ENTRY

that the within is a (certified) true copy of a
entered in the office of the clerk of the within-named Court on

20

☐

NOTICE OF
SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the
Hon. , one of the judges of the within-named Court,
at
on 20 , at M.

Dated:

LEON FRIEDMAN

Attorney for

To:

685 THIRD AVENUE, 25TH FLOOR
NEW YORK, NEW YORK 10017
(646) 825-4398

Attorney(s) for

STATE OF NEW YORK, COUNTY OF

ss:

I, the undersigned, am an attorney admitted to practice in the courts of New York, and

Check Applicable Box

☐ Attorney's
Certification

certify that the annexed
has been compared by me with the original and found to be a true and complete copy thereof.

☐ Attorney's
Verification
by
Affirmation

say that: I am the attorney of record, or of counsel with the attorney(s) of record, for
. I have read the annexed
know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information
and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon
knowledge, is based upon the following.

The reason I make this affirmation instead of is

I affirm that the foregoing statements are true under penalties of perjury.

Dated: (Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF

ss:

being sworn says: I am

Check Applicable Box

☐ Individual
Verification

in the action herein; I have read the annexed
know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on
information and belief, and as to those matters I believe them to be true.

☐ Corporate
Verification

the of
a corporation, one of the parties to the action; I have read the annexed
know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on
information and belief, and as to those matters I believe them to be true.

My belief, as to those matters therein not stated upon knowledge, is based upon the following:

Sworn to before me on , 20 (Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF

ss:

being sworn says: I am not a party to the action, am over 18 years of

age and reside at

On , 20 , I served a true copy of the annexed
in the following manner:

☐ Service
by Mail

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service,
addressed to the address of the addressee(s) indicated below, which has been designated for service by the addressee(s) or, if no such address
has been designated, is the last-known address of the addressee(s):

☐ Personal
Service

by delivering the same personally to the persons at the address indicated below:

☐ Service by
Facsimile

by transmitting the same to the attorney by facsimile transmission to the facsimile telephone number designated by the attorney for that
purpose. In doing so, I received a signal from the equipment of the attorney served indicating that the transmission was received,
and mailed a copy of same to that attorney, in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the
U.S. Postal Service, addressed to the address of the addressee(s) as indicated below, which has been designated for service by the
addressee(s) or, if no such address has been designated, is the last-known address of the addressee(s):

☐ Service by
Electronic
Means

by transmitting the same to the attorney by electronic means upon the party's written consent. In doing so, I indicated in the subject matter
heading that the matter being transmitted electronically is related to a court proceeding:

☐ Overnight
Delivery
Service

by depositing the same with an overnight delivery service in a wrapper properly addressed, the address having been designated by the
addressee(s) for that purpose or, if none is designated, to the last-known address of addressee(s). Said delivery was made prior to the latest
time designated by the overnight delivery service for overnight delivery. The address and delivery service are indicated below:

Sworn to before me on , 20

(Print signer's name below signature)